

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 2918

SPONSOR: Governmental Oversight and Productivity Committee and Senator Atwater

SUBJECT: Florida School for the Deaf and the Blind

DATE: April 19, 2004 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Woodruff</u>	<u>O'Farrell</u>	<u>ED</u>	<u>Favorable</u>
2.	<u>Wilson</u>	<u>Wilson</u>	<u>GO</u>	<u>Fav/CS</u>
3.	_____	_____	<u>AED</u>	_____
4.	_____	_____	<u>AP</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill requires the Auditor General to conduct annual audits of the accounts and records of the Florida School for the Deaf and Blind. The school is defined as a component of the delivery of public education within Florida's K-20 education system and is identified as being subject to examination by the Inspector General of the Department of Education. The bill expands provisions regarding university master plans and campus development agreements to make those sections applicable to the Florida School for the Deaf and the Blind. The bill also creates a direct-support organization to act on behalf of the School.

The bill proves a statement of legislative intent for the operation of the Division of Blind services and provides for the development of long-range plans for individuals who are blind. A separate program for blind children under five years of age is created in the Department of Education and provides for background screening standards for all employment applicants

This bill substantially amends the following sections of the Florida Statutes: 11.45, 413.011, 413.014, 413.041, 413.051, 413.091, 1001.20, 1011.55, 1002.36, and 1011.55, F.S. It creates ss. 413.095, 1002.361, and 1013.351, F.S.

The bill repeals ss. 413.061, 413.062, 413.063, 413.064, 413.065, 413.066, 413.067, 413.068, and 413.069, F.S.

II. Present Situation:

Founded in 1885, the Florida School for the Deaf and the Blind is a state-supported boarding school for eligible hearing-impaired and visually-impaired students, pre-school through 12th grade. The school serves approximately 700 students from its St. Augustine campus. The Florida

School for the Deaf and the Blind operates under the leadership and direction of its Board of Trustees, pursuant to s. 1002.36, F.S. The board consists of seven members who are appointed by the Governor and confirmed by the Senate. One of its members is required to be a blind person and one is required to be a deaf person. Each member is required to have been a Florida resident for at least ten years and the term of office for each member is four years.

The board adopts rules, subject to the approval of the State Board of Education, as it considers necessary to operate the school in conjunction with the rules of the State Board of Education. The rules adopted by the board are published in the Florida School for the Deaf and the Blind Rules, Chapter 6D, Florida Administrative Code. The board exercises control of the School through a board appointed president, who is the chief administrative officer of the School and appoints and supervises all other School employees.

The school's purchasing procedures are governed by ch. 287, F.S., and rules and regulations of the Florida Department of Management Services. Personnel matters are governed by Florida School for the Deaf and the Blind Rules, Chapter 6D-6, Florida Administrative Code, and Department of Management Services Rules, Chapter 60L, Florida Administrative Code, as appropriate for the position.

The school is part of the state system of public education and is funded through the Florida Department of Education. The Legislature appropriates fixed capital outlay moneys to the school on an annual basis from the Public Education Capital (PECO) and Debt Service Trust Fund pursuant to Art. XII, s. 9(a)(2) of the State Constitution, as amended.

Under current law, the school:

- Must submit proposed administrative rules to the Board of Education for approval, although approval is deemed automatic if the board does not disapprove of the proposed rule in 60 days;
- Must present its Legislative Budget Request directly to the Legislature;
- Is allowed to invest its monies in any investment that the State Board of Administration is authorized to invest in; and
- Is located in St. Johns County.

Current law also provides that state agencies must receive approval from the Attorney General to procure legal services from a private law firm.

Section 1013.30, F.S., requires universities to create and maintain campus master plans and campus development agreements. The relationship between the universities and the communities in which they are located is governed by s. 1013.30, F.S.

The Auditor General issued Audit Report No. 03-095, regarding the Florida School for the Deaf and the Blind, on December 19, 2002. The Auditor General's summary of findings, at pages 3-4, is:

Finding No. 1: The internal audit function was underutilized and reported to school management rather than to the Board of Trustees or an Internal Audit Committee.

Finding No. 2: Contrary to state law, for the fiscal years ended June 30, 2001, and 2002, the school deposited approximately \$1.17 million and \$1.22 million, respectively, in accounts outside the State Treasury.

Finding No. 3: Incompatible duties were assigned to two student bank employees.

Finding No. 4: Emergency and single source procurements were inadequately documented, or inappropriately applied, to eight contracts totaling approximately \$1.2 million.

Finding No. 5: Contrary to state law, the school hired a lobbyist to represent the school in legislative matters for the fiscal years ended June 30, 2001, and 2002. Additionally, the \$80,000 annual payments made to the lobbyist were not reported on the school's semiannual lobbyist expenditure reports.

The lobbyist in question is listed in the state automated personnel system as working under a twelve-month contract with the official headquarters at Moore Hall on the school campus in St. Augustine. The 2004 legislative lobbyist registration database indicates the mailing address for this same person as a residential street address in Tallahassee. That database also indicates this person to have two other named principals, one a state university in another city and the other a private health care association.

Finding No. 6: Payments totaling approximately \$34,000 for consultants' travel were not properly documented and paid in accordance with s. 112.061, F.S.

Finding No. 7: Acquisitions of real estate totaling approximately \$2.2 million (including those currently under contract) were not made in accordance with applicable laws and rules, and good business practice.

Finding No. 8: The school's campus planning documents were not comprehensive and up-to-date, and did not agree with one another in certain details; consequently, they did not provide assurance that the school's projected six-year, \$67 million expansion and renovation efforts would be conducted in an organized and logical manner, and only as necessary to meet the legitimate needs of the school.

Finding No. 9: The school did not adequately monitor and review the performance of its construction manager, or the payment requests submitted by that manager, for approximately \$239,000 of work related to the construction of an \$8 million vocational-technical high school on the school's campus.

Finding No. 10: Controls and documentation related to the disposal of surplus tangible personal property were inadequate to support the disposal of approximately \$448,000 of such property during the fiscal year ended June 30, 2001.

Finding No. 11: Contrary to s. 112.313(3), F.S., the school contracted for services with the privately held corporation of an Other Personal Services (OPS) employee. The related payments, which totaled approximately \$49,000, were used by the corporation to compensate another employee who had been placed on leave-without-pay status.

Finding No. 12: Fourteen of the 30 position descriptions reviewed had not been updated within the last three years.

Finding No. 13: The \$579,000 medical services program with the University of Florida was not efficiently administered and the related reporting to the Legislature was not complete.

In the school's reply to the audit findings¹, the president of the school took the position that the school is free to manage its own affairs, under its Board of Trustees, without regard to any statutory or rule provisions that do not specifically mention the school.² There is no constitutional, statutory, or case law support for this position.³

III. Effect of Proposed Changes:

Section 1. The bill amends s. 11.45, F.S., to require the Auditor General to conduct annual audits of the accounts and records of the Florida School for the Deaf and the Blind.

Section 2. The bill amends s. 1001.20 (4) (e), F.S., to identify the school as being subject to examination by the Inspector General of the Department of Education should allegations of waste, fraud, or financial mismanagement be made against the school.

Section 3. The bill amends s. 1002.36, F.S., to state that The Florida School for the Deaf and the Blind is defined as a component of the delivery of public education within Florida's K-20 education system but, unless otherwise provided by law, shall comply with all laws and rules applicable to state agencies. The bill requires annual audits of the school by the Auditor General and makes the school subject to investigation by the Inspector General of the Department of Education pursuant to law. The bill amends the statutory procedure used by the State Board of Education to approve rules submitted by the school. Instead of a submitted rule being approved if the State Board does not disapprove the rule, the State Board must act to affirm adoption of the rule. The bill specifies the school as a public residential school located in St. Johns County.

The bill provides that the school is limited to the list of investments authorized of local governments enumerated at s. 215.47(1), (2)(d), (3), (4), and (9), F.S., except for monies invested in The Common Fund, which is a current option.

The bill specifies that the Board of Trustees of the school is authorized to procure legal services without the prior written approval of the Attorney General.

¹ Letter from Elmer L. Dillingham, Jr., November 21, 2002, included as an addendum to Auditor General Report 03-095.

² Auditor General Report 03-095, page 4.

³ The Attorney General has twice opined that the school is subject to state general law. See AG Opinions 078-162 and 94-95.

The bill requires all funds received other than gifts, donations, bequests, and student club or organization funds be deposited in the State Treasury, expended as authorized in the General Appropriations Act, and that all purchases must be in accordance with the provisions of ch. 287, F.S.

The bill provides that current laws applicable to all state agencies are specifically applicable to the school. Those provisions require the school to:

- Deposit all funds other than gifts, donations, and bequests into the State Treasury.
- Utilize state purchasing laws in ch. 287, F.S.
- Provide a veteran's preference in hiring.
- Comply with travel and per diem rates set forth in s. 112.061, F.S.

Section 4. The bill amends s. 1011.55, F.S., The bill requires the Board of Trustees to submit its operating and capital outlay Legislative Budget Request through the Department of Education, which must approve the request before it is submitted to the Legislature.

Section 5. The bill creates s. 1013.351, F.S., to provide for coordinated land use planning between the Trustees of the Florida School for the Deaf and the Blind and local governments.

Section 6. The bill amends s. 413.011, F.S., to provide a statement of principles for the activities of the Division of Blind Services that emphasize respect for dignity, personal privacy, and coordinated service delivery. The division shall develop and implement a state plan for services in conjunction with the Florida Independent Living Council that is consistent with applicable federal law. The plan shall include provision for the creation or sponsorship of enterprise activities and centers that foster services for blind people.

The bill creates a children's program within the division, the purpose of which is focus particular activity on individuals beginning at five years of age. Employees providing such children's services shall be subject to background screening at level 2 as prescribed in ch. 435, F.S.

Section 7. The bill amends s. 413.014, F.S., to provide that community programs for the blind shall provide programs as defined by the Rehabilitation Act of 1973, as amended.

Section 8. The bill amends s. 413.041, F.S., to provide technical conforming changes to statutes affecting placement of blind vending facilities.

Section 9. The bill amends s. 413.051, F.S., to provide technical conforming changes relative to the operation of blind vending facilities.

Section 10. The bill amends s. 413.091, F.S., to make conforming grammatical changes to provisions on identification cards for the blind.

Section 11. The bill amends s. 413.095, F.S., to provide that the division retains title to property it acquires and may dispose of surplus property in such manner as to yield the greater financial advantage.

Section 12. The bill creates a direct-support organization (DSO) for the division. The DSO will be a non-profit corporation created by the division and operating under contract with it. The DSO is subject to all public records, meetings and audit statutes and may raise funds for the enhancement of programs of the division.

Section 13. The bill repeals ss. 413.061, 413.062, 413.063, 413.064, 413.065, 413.066, 413.067, 413.068, and 413.069, F.S.

Section 14. The bill creates s. 1002.361, F.S., to permit the School Trustees to create a direct support organization that will operate under a contractual agreement with the school.

Section 15. The effective date of the bill is upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Department of Education states that additional administrative costs may be incurred to provide the necessary documentation to facilitate the annual audit process.

The Auditor General conducts an audit of the accounts and records of the Florida School for the Deaf and the Blind on a biennial schedule. Changing the audit cycle to every year will involve additional expense. The Auditor General's Office estimates the cost at an additional \$125,000 every other year, but believes the cost may be able to be covered within its existing budget.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
